

Effective 5/10/2016

59-1-304 Definition -- Limitations on maintaining a class action that relates to a tax or fee -- Requirements for a person to be included as a member of a class in a class action -- Rulemaking authority -- Limitations on recovery by members of a class -- Severability.

- (1) As used in this section, "tax or fee" means a tax or fee administered by the commission.
- (2) A class action that relates to a tax or fee may not be maintained in any court if a claim sought by a representative party seeking to maintain the class action arises as a result of:
 - (a) a person collecting a tax or fee from the representative party if the representative party is not required by law to pay the tax or fee; or
 - (b) any of the following that requires a change in the manner in which a tax or fee is required to be collected or paid:
 - (i) an administrative rule made by the commission;
 - (ii) a private letter ruling issued by the commission; or
 - (iii) a decision issued by:
 - (A) the commission; or
 - (B) a court of competent jurisdiction.
- (3)
 - (a) A person may be included as a member of a class in a class action relating to a tax or fee only if the person:
 - (i) exhausts all administrative remedies with the commission; and
 - (ii) requests in writing to be included as a member of the class.
 - (b)
 - (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules to simplify and expedite the administrative remedies a person shall exhaust as required by Subsection (3)(a).
 - (ii) The rules required by Subsection (3)(b)(i) may include rules providing for:
 - (A) expedited filing procedures and forms;
 - (B) consolidation of hearings procedures as may be reasonably needed to accommodate potential inclusion of similarly situated persons; and
 - (C) the designation of test or sample cases to avoid multiple hearings.
- (4) Subject to Subsection (5), in a class action brought under this section against the state or its political subdivisions in which members of the class are awarded a refund or credit of a tax or fee by a court of competent jurisdiction, the total amount that may be recovered by members of the class may not exceed the difference between:
 - (a) the sum of:
 - (i) the amount of the refund or credit awarded to members of the class; and
 - (ii) interest as provided in Section 59-1-402; and
 - (b) if awarded in accordance with Subsection (5), the sum of:
 - (i) reasonable costs; and
 - (ii) reasonable attorney fees.
- (5)
 - (a) For purposes of Subsection (4), at the discretion of the court, the court may award:
 - (i) reasonable costs as determined by the court; and
 - (ii) reasonable attorney fees determined under Subsection (5)(b).
 - (b) Reasonable attorney fees awarded in a class action may not exceed a reasonable hourly rate for work actually performed:
 - (i) as determined by the court; and
 - (ii) taking into account all facts and circumstances that the court considers reasonable.

- (6) If any provision of this section, or the application of any provision of this section to any person or circumstance is held unconstitutional or invalid by a court of competent jurisdiction, the remainder of the section shall be given effect without the invalid provision or application.

Amended by Chapter 135, 2016 General Session